

July 31, 1998

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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COMBINED REPORT AND DECISION:

A: PRELIMINARY PLAT APPLICATION
B: VARIANCE REQUEST

SUBJECT: Department of Development and Environmental Services File Nos. **L97P0039** and **L98VA002**
RIVER RIM

Preliminary Plat Application and
Application for Variance from Open Space Requirements

Location: Northwest of the intersection of SE 290th Street and 108th Avenue SE
Applicant: Mike Dunne, River Run, LLC, 25022 – 104th Avenue SE, #B, Kent, WA 98031

SUMMARY OF RECOMMENDATIONS:

Preliminary Plat Application:

Department's Preliminary:	Deny preliminary plat application
Department's Final:	Approve, subject to conditions
Examiner:	Approved, subject to conditions

Variance Application:

Department's Preliminary:	Approve requested variance
Department's Final:	Approve requested variance
Examiner:	Requested variance approved

EXAMINER PROCEEDINGS:

Hearing Opened:	July 28, 1998
Hearing Closed:	July 28, 1998

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES ADDRESSED:

- | | |
|--------------|------------------------|
| • Open space | • Soil characteristics |
| • Drainage | • Sewage Disposal |

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. **General Information.**

Owner/Developer:	River Rim LLC, 25022 – 140 th Avenue SE, Kent, WA 98031
Engineer:	Baseline Engineering, Inc., 1910 – 64 th Avenue W, Tacoma, WA 98466
Location:	Northwest of the intersection of SE 290 th Street and 108 th Avenue SE
STR:	Section 5 – Township 21N – Range 5E – W.M.
Zoning:	R-1
Acreage:	12.73
Density:	1 dwelling unit per acre
Typical Lot Size:	15, 763 to 45,000 square feet
Proposed Use:	Single-family detached housing
Sewage Disposal:	Septic tank
Water Supply:	City of Auburn
Fire District:	King County #44
School District:	Auburn School District #408
Complete Application Date:	October 29, 1997

2. **Proposal.** River Rim, LLC, represented by Richard A. Moose, P.E. of Baseline Engineering, Inc., (hereinafter, the “Applicant”), proposes to subdivide a 12.73 acre parcel into 12 single-family residential building lots. The proposed density of 1 dwelling unit per acre falls within the R-1 zoning classification density range authorized. Proposed lot sizes will range from approximately 15,700 to 45,400 square feet. The preliminary plat design is shown in exhibit no. 7 and is reduced and attached to the Department of Development and Environmental Services (the “Department” or “DDES”) preliminary report to the Examiner (exhibit no. 2).

In order to implement this proposed plan, however, a variance will be necessary to reduce the open space required for this development from 50% to 46%. The revised plan submitted by the Applicant June 9, 1998 provides a 15-foot-wide buffer in a separate tract which increases the open space tract area from 46% to 48%, approximately only 12,200 square feet short of the 50% requirement (out of a total open space requirement of 277,200 square feet).

3. **SEPA.** On May 26, 1998 the Department issued its threshold determination of nonsignificance regarding the proposed development. That is, the Department issued its decision that an EIS should not be required because the proposed development would not cause probable significant adverse impacts upon the environment. No party, person, agency or tribe appealed that decision.
4. **Department Recommendation.** The Department recommends granting preliminary approval to the proposed plat of River Rim, subject to 17 conditions of final plat approval shown on pages 9 through 11 of the Department’s preliminary report to the Examiner (exhibit no. 2). In addition, in that same report, the Department recommends granting approval to the Applicant’s request for variance from the 50% open space requirement, authorizing development as described in finding no. 1, above, and illustrated by exhibit no. 16 (revised preliminary plat drawing).

5. **Applicant's Position.** The Applicant accepts the Department's recommendation, including recommended conditions of final plat approval.
6. **Public Participation.** No person, agency or tribe appeared at the hearing. However, the Applicant—due to dependence upon City of Auburn domestic water supply—has participated in extensive Auburn engineering and public review.
7. **Issues Resolution.** Having worked with the City of Auburn and with County DDES staff, the Applicant's proposal contains these issue-resolving features:
 - A) A high density seamless polyethylene pipe ("Drisco" pipe) through the Green River Gorge below in order to avoid erosion from storm run-off;
 - B) Installation of *both* septic tanks (to County standard) and "dry sewers" for eventual utility district connection;
 - C) Additional setback for the drainage tract;
 - D) The variance described above; and,
 - E) A fee to be paid in lieu of recreation space.

Two existing wells will be abandoned in accordance with Department of Ecology regulations prior to final plat approval.

8. **Department Report Adopted.** Except as noted above, the facts and analysis contained in the Land Use Services Division Preliminary Report dated July 28, 1998 are correct and are incorporated here by reference. A copy of the Land Use Services Division report will be attached to those copies of the Examiner's report which are submitted to the King County Council.
9. **Conclusions Adopted As Findings.** Any portion of any of the following conclusions which may be construed as a finding is incorporated here by reference.

CONCLUSIONS:

1. Strict enforcement of the provisions of this zoning classification regarding the 50% open space requirement would create an unnecessary hardship to the property owner. The requested variance is necessary due to the unique topography of the subject property which deprives it of rights and privileges enjoyed by other properties in the vicinity and under the identical zone. The requested variance is not procedural in nature. The requested variance does not relieve the Applicant from conditions established during prior permit review or from procedures enacted pursuant to KCC 21A.38 (property—specific development standards). Nor does the requested variance affect any code requirement which contains language that prohibits a variance. The requested variance does not allow establishment of a use that is not otherwise permitted in this R-1 zone and does not allow the creation of lots or densities that exceed the base residential density of the R-1 zone by more than 10%. The variance granted will be the minimum

necessary to grant relief to the Applicant and will not relieve the Applicant of any provision contained in King County's Sensitive Areas Regulations. For all of these reasons, it is concluded that the application meets the required showing for a variance.

The provision of "dry sewers" will enable complete compliance with King County plans and controls when public sewerage service becomes available to the subject property. The current connection fee to the City of Auburn for sewerage purposes is approximately \$850. per unit, which is reasonably feasible.

2. If approved subject to the conditions set forth below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Soos Creek Community Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
3. If approved subject to the conditions set forth below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
4. The conditions for final plat approval set forth below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
5. The dedications of land or easements within and adjacent to the proposed plat, as required by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the applicant, are reasonable and necessary as a direct result of the development of this proposed plat.

DECISION:

APPROVE the variance from open space requirements requested by Mike Dunne for the preliminary plat of River Rim, as described in DDES file no. L98VA002.

APPROVE the preliminary plat application of River Rim, DDES file no. L97P0039, as shown in exhibit no. 7, **SUBJECT TO** the conditions of final plat approval shown on pages 9 through 11 of the Department of Development and Environmental Services preliminary report to the Hearing Examiner, dated July 28, 1998.

ORDERED this 31st day of July, 1998.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 31st day of July, 1998, to the parties and interested persons on the attached list.

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before August 14, 1998**. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before August 21, 1998**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE JULY 28, 1998 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NOS. L97P0039 AND L98VA002: RIVER RIM:

R.S. Titus was the Hearing Examiner in this matter. Participating in the hearing were Gary Kohler, Bruce Whittaker, Larry West, and Rick Moose.

The following exhibits were offered and entered into the record:

- Exhibit No. 1a Department of Development and Environmental Services File No. L97P0039
- Exhibit No. 1b Department of Development and Environmental Services File No. L98VA002
- Exhibit No. 2 Department of Development and Environmental Services Preliminary Report to the Hearing Examiner for the July 28, 1998 public hearing
- Exhibit No. 3a Application dated September 30, 1997
- Exhibit No. 3b Application dated February 18, 1998
- Exhibit No. 4 Environmental Checklist dated September 30, 1997
- Exhibit No. 5 Declaration of Non-Significance dated May 26, 1998
- Exhibit No. 6 Affidavit of Posting, indicating November 15, 1997 as date of posting and November 4, 1997 as date affidavit was received by DDES
- Exhibit No. 7 Plat map dated November 25, 1997
- Exhibit No. 8 Land Use Map 708 E&W and 631 E&W
- Exhibit No. 9 Assessor Maps NW, NE 5-21-5 and SE, SW 32-22-5
- Exhibit No. 10 Level 1 Downstream Analysis
- Exhibit No. 11 Subsurface Soils Investigation
- Exhibit No. 12 Slope Stability and Setback Analysis, March 19, 1998
- Exhibit No. 13 Wetland Site Reconnaissance, February 20, 1997
- Exhibit No. 14 Plan for Variance, February 18, 1998
- Exhibit No. 15 Health Department Approval, August 28, 1997
- Exhibit No. 16 Revised Site Plan, March 19, 1998
- Exhibit No. 17 Revised Drainage Plan, March 19, 1998
- Exhibit No. 18 Revised Topographical Survey, March 19, 1998
- Exhibit No. 19 Fax to Gary Kohler, of two letters from City of Auburn, both dated July 22, 1998
- Exhibit No. 20 Fax to Gary Kohler, of agreement between City of Auburn, Roger & Margaret Thordarson, and River Rim, L.L.C.

RST:vam

Attachment

plats\l97p\l97p0039 rpt